

REMARKS/ARGUMENTS

Claims 1-44 are pending. In light of the amendments and following remarks, Applicant believes all the pending claims are in condition for allowance.

The § 101 Rejection of Claims 1 and 7

Claims 1 and 7 were rejected under § 101 as allegedly being nonstatutory subject matter. The Office Action admits that the claims produce useful, concrete and tangible results (page 3), it is asserted the claims are not within the technological arts. In a sincere effort to expedite prosecution, Applicant has amended these claims to recite that a processor performs one of the steps. Therefore, this rejection is overcome.

The § 102(e) Rejection of Claims 1-4, 7-13, 16-22, and 25-44

Claims 1-4, 7-13, 16-22, and 25-44 were rejected under 35 USC § 102(e) as being allegedly anticipated by U.S. Publication No. 2001/0056362, published December 27, 2001 by Hanagan et al. (hereinafter "Hanagan"). For the following reasons, Applicant respectfully traverses the rejection.

In the last Amendment, Applicant asserted that the first Office Action had not shown where Hanagan discloses rating a billing event upon receiving the billing event according to the billing event, the current usage information, and a usage dependent rating scheme as recited in claim 1. In response, the latest Office Action (see page 9) asserts that the claimed invention is disclosed in paragraph 196 of Hanagan, which reads as follows:

[0196] This section provides an overview of the ERP (Event Rater and Pricer) 16 component of ERP 16 provides convergent real time message processing functionality for a provider's usage and non-usage events based on concepts for handling very large volumes of data. ERP 16 accepts and processes network and non-network events to produce bill-ready events (a billable event record that has been completely rated, summarized, processed, discounted and taxed) that can be processed by CBM (Customer Billing Manager) 18. ERP 16 actively collects raw

events from different network elements 28 and also processes input from other external entities and other subsystems of the Customer Care and Billing system. The collected events are formatted, validated, assembled and checked for duplicates. After the events are rated and summarized, they are stored in the Billable Event database. ERP 16 also processes recurring and non-recurring charges, performs taxing, and performs final pricing of the events, for example, volume discounting. The billable events in the database are accessible for billing and can also be retrieved by CCM (Customer Care Manager) 12 and other systems to answer customer queries.

Applicant has underlined what appears to be all the actions that this paragraph describes that the ERP of Hanagan performs. At first, the paragraph states that usage and non-usage events will be processed according to “concepts for handling large volumes of data.” Applicant is unsure what that is, but it is not the rating a billing event upon receiving the billing event according to the billing event, the current usage information, and a usage dependent rating scheme as recited in claim 1.

As another example, the paragraph then states that bill-ready events are produced. Once again, this is not what is claimed. The paragraph describes many actions the ERP of Hanagan may perform, but the paragraph does not describe rating a billing event upon receiving the billing event according to the billing event, the current usage information, and a usage dependent rating scheme. A prima facie case of anticipation requires, among other things, that the reference teach all the features of a claim. When, as here, the reference has not been shown to teach all the features, a prima facie case of anticipation has not been established.

In summary, Hanagan has not been shown to disclose using current usage information and a usage dependent rating scheme to rate a billing event in a real time accounting system as recited in claim 1. Accordingly, claims 1, 37 and 41 (and their dependent claims) are patentably distinct over the reference for at least the reasons described above.

With regard to independent claims 7, 39 and 43, the Office Action asserts that Hanagan discloses all the features of the claims. For example, claim 7 recites that marketing information

are sent to a user associated with an account responsive to performing the look-forward into the rating scheme.

The only citation to Hanagan in the first Office Action for these features was paragraph 0108 that describes that rating can be varied for each product. This paragraph does not disclose the features of claim 7. The latest Office Action merely repeats the rejection of the first Office Action but does not show where paragraph 108 describes the features of claims 7, 239, and 43. Accordingly, these claims (and their dependent claims) are patentably distinct over the reference as a prima facie case of anticipation has not been established.

The § 103(a) Rejection of Claims 14-15 and 23-24

Claims 14-15 and 23-24 were rejected under 35 USC § 103(a) as allegedly being unpatentable over Hanagan. As these claims are dependent claims, they are patentably distinct over the reference for at least the same reasons as above.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8693.

Respectfully submitted,


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